

THE HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

ANDREW HEDDEN, ROBERT BARNES,)	Case Nos.: 2:05 999 TSZ, and 2:05 1340
et al,)	TSZ
)	
Plaintiffs,)	AFFIDAVIT OF PAUL RICHMOND IN
)	SUPPORT OF
v.)	PLAINTIFF'S MOTION FOR
)	SUMMARY JUDGMENT BASED UPON
CITY OF SEATTLE, et al.,)	DEFENDANTS' FAILURE TO PROVIDE
)	AN ANSWER
Defendants)	NOTED FOR NOVEMBER 24, 2006

Paul Richmond SWEARS as follows:

- 1) I am Counsel for Plaintiffs in this matter. I work and reside in Seattle Washington. My business address is 600 First Avenue, Suite 331, Seattle, WA, 98104.
- 2) Plaintiffs filed timely, brought this action and served Defendants.
- 3) Defendants have failed to respond by filing an Answer.
- 4) This case stems from an unwarranted attack by members of the Seattle Police Department upon demonstrators attempting to leave the scene of a demonstration on June 2, 2003. The police, through their conduct, created a crisis as the demonstrators were leaving by attacking them with pepper spray, bicycles used as clubs, their fists and other weapons. These Defendants singled

1 out those who were documenting their conduct, taking cameras from and
2 arresting at least three of the persons there with cameras. The Defendants threw
3 multiple sting ball grenades into the backs of the retreating Plaintiffs, when
4 Plaintiffs were only a short distance of Westlake Plaza, the place the Defendants
5 were nominally directing Plaintiffs.

- 6 5) Plaintiffs timely brought the suit 2:05 999 TSZ on June 2, 2005, (Dkt. 1, 2:05 999
7 TSZ), and timely brought suit 2:05 1340 TSZ on August 1, 2005 (Dkt. 1 2:05
8 1340 TSZ). A notice of related case was filed on September 8, 2005, (Dkt. 8
9 2:05 999 TSZ.) Case 2:05-1340 TSZ was closed and consolidated with case
10 2:05-999 TSZ on December 22, 2005 (Dkt. 67, 2:05 1340 TSZ). Plaintiffs timely
11 served Defendants. This is supported by filings including Dkts 19-55 2:05 1340
12 TSZ, and Dkt. 39-102 2:05 999 TSZ;, and Exhibits Accompanying Dkt. 103 2:05
13 999 TSZ). Defendant Derek Darnall was the last City Defendant served, with the
14 Court ordering the City to provide his address (Dkt. 133, Minute Order) and the
15 City complying.
- 16 6) Defendants failed to file an Answer for any Defendants.
- 17 7) In an effort to comply with the Courts direction to simplify this mater, Plaintiffs
18 filed an Amended Complaint on May 25, 2006 (Dkt. 180-182.)
- 19 8) Defendants acknowledged that Service was not an issue in this Amended
20 Complaint and that they had not yet filed an Answer. This is reflected in attached
21 Exhibits 1-4, Communications between June 9, 2006 and 24 July 2006 between
22 Plaintiffs' Counsel Paul Richmond and Defendants' Counsel Ted Buck.
- 23 9) In these communications Defendants' Counsel acknowledged there were no
24 issues with service.
- 25

1 10) In these communications Defendants' Counsel acknowledged they had not filed
2 an Answer.

3 11) This is shown in Exhibit 4, where Defendants' Counsel stated: "I believe you have
4 the right to amend once before the answer is filed, so I can't see any issue if you didn't add
5 anyone new."

6 12) Defendants failed to file an Answer to this Amended Complaint.

7 13) All remaining Defendants have either been personally served or have provided
8 Plaintiffs with waivers.

9 14) Substantially more than 60 days has passed since the completion of this Service
10 and City Defendants have not provided an Answer.

11 15) Accordingly, under FRCP 8(d) City Defendants have admitted the averments in
12 Plaintiffs' Complaint.

13
14 I swear the above is true under applicable penalties of Perjury, respectfully
submitted this 6th day of November, 2006

15
16 /s/ Paul Richmond

Paul Richmond, WSBA
32306

Attorney for Plaintiffs
Law Office of Paul
Richmond

600 1st Avenue, Suite 331
Seattle, WA, 98104

CERTIFICATE OF SERVICE

I hereby certify that on November 6th, 2006 I caused the below documents
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT, PROPOSED ORDERS,
AFFIDAVIT OF PAUL RICHMOND, EXHIBITS
to be filed through the Court's ECF filing system which will send notice to the following:

Ted Buck, Associated Counsel tbuck@staffordfrey.com
Raul Martinez, rmartinez@staffordfrey.com
Counsel for City Defendants, Stafford Frey Cooper

/s/ Paul Richmond, through ECF
Paul Richmond